

Application No.: 10/723,168
Filing Date: November 26, 2003

REMARKS

Claims 3, 5-11, 16-24, 38, and 40-42 are pending and are allowable as stated in the recently received Office Action. Claims 1, 2, 4, 12-15, 25-37, and 39 are canceled.

Discussion of Rejections under 35 U.S.C. § 103(a)

The Office Action indicated Claims 1 and 2 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Irwin (US 6,385,496) in view of Cannon (US 20050186671) and Zeitlin (EP 0156176). Applicant traverses these rejections. However, to facilitate issuance of the claims deemed allowable in the Office Action, Claims 1 and 2 are canceled without prejudice. Accordingly, Applicant respectfully asserts these rejections are moot, and that the pending claims are now in condition for allowance.

Discussion of Double Patenting

Claims 1-24 and 38 are *provisionally* rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4, 8-11, 14-22, 27, and 40-48 of copending Application No. 11/057,079. The '079 Application was filed later than this application and the '079 Application has not yet been examined. Accordingly, Applicant respectfully submits that a terminal disclaimer is not required for this application, and requests the Examiner withdraw the double patenting *provisional* rejection and permit this application to issue without a terminal disclaimer. See M.P.E.P. § 804. Applicant acknowledges that an appropriate terminal disclaimer may be necessary for the '079 application, or for any other subsequently filed continuing application, and will address that matter if it arises during the prosecution of any such later filed applications.

Discussion of Allowable Subject Matter

The Examiner indicated Claims 3, 5-11, 16-24, 38, and 40-42 are allowed. Rejected claims 1 and 2, and all previously withdrawn claims have been canceled. Accordingly, Applicant respectfully asserts that the pending claims 3, 5-11, 16-24, 38, and 40-42 are now in condition for allowance.

Should the Examiner have any remaining concerns that might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

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No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

Co-Pending Applications of Assignee

Applicant discloses the following co-pending application of the present application's assignee, of which the Examiner is already aware.

Serial Number	Title	Filed
11/057,079	INTEGRATED BIO-REACTOR MONITOR AND CONTROL SYSTM	February 10, 2005

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: August 6, 2006

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